

**KESSLER TOPAZ
MELTZER & CHECK, LLP**
Ramzi Abadou (Bar No. 222567)
Stacey M. Kaplan (Bar No. 241989)
One Sansome Street, Suite 1850
San Francisco, CA 94104
Telephone: (415) 400-3000
Facsimile: (415) 400-3001

-and-

Joseph H. Meltzer (*Pro Hac Vice*)
Sean M. Handler (*Pro Hac Vice*)
Naumon A. Amjed (*Pro Hac Vice*)
Ryan T. Degnan (*Pro Hac Vice*)
280 King of Prussia Road
Radnor, PA 19087
Telephone: (610) 667-7706
Facsimile: (610) 667-7056

Interim Co-Class Counsel

**REDACTED VERSION OF
DOCUMENTS SOUGHT TO
BE SEALED**

NIX, PATTERSON & ROACH, LLP
Jeffrey J. Angelovich (*Pro Hac Vice*)
Brad E. Seidel (*Pro Hac Vice*)
Andrew G. Pate (*Pro Hac Vice*)
Chad E. Ihrig (*Pro Hac Vice*)
3600 N. Capital of Texas Highway
Building B, Suite 350
Austin, TX 78746
Telephone: (512) 328-5333
Facsimile: (512) 328-5335

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION**

RICK WOODS, Individually and On Behalf of
All Others Similarly Situated,

Plaintiff,

v.

GOOGLE INC.,

Defendant.

Case No. 11-cv-1263-EJD

**PLAINTIFF'S MOTION FOR LEAVE
TO SUPPLEMENT DISCOVERY
DISPUTE JOINT REPORT #1**

[Civil Local Rule 7-11]

1 **TO DEFENDANT AND ITS ATTORNEYS OF RECORD:**

2 **PLEASE TAKE NOTICE** that under Local Rule 7-11 and Judge Lloyd’s Standing Order
3 re: Civil Discovery Disputes (the “Standing Order”), Plaintiff, Rick Woods, hereby moves for leave
4 to supplement Discovery Dispute Joint Report #1 (the “Joint Report”) with documents produced by
5 Defendant in discovery to aid the Court’s decision. The Joint Report was provisionally lodged with
6 the Clerk and Court on July 24, 2013 pending the Court’s decision on Plaintiff’s Administrative
7 Motion to File Under Seal Discovery Dispute Joint Report #1 (Dkt. No. 129).

8 Under the Standing Order, the only exhibits permitted to a joint report are exact copies of
9 any discovery requests and responses. However, due to the technical nature of the document
10 requests and information at issue—and the confusion caused by Defendant previously denying the
11 information exists—Plaintiff believes the Court would benefit from reviewing certain documents
12 produced by Defendant, all of which are relevant to the issues in the Joint Report. Specifically,
13 these documents demonstrate Defendant possesses the precise information sought by Plaintiff in his
14 requests. Defendant has neither produced this information nor disclosed its existence during any of
15 the parties’ numerous discovery conferences on this issue. To the contrary, Defendant led Plaintiff
16 to believe such information did not exist.

17 In the Joint Report, Plaintiff asks the Court to compel Defendant to produce:
18 (1) descriptions of the log files Defendant maintains with respect to clicks and impressions;
19 (2) identification and descriptions of the fields of data maintained within those log files; (3) data
20 from such log files relating to the clicks (and related impressions) alleged in paragraph 120 of the
21 Complaint; and (4) complete identification and description of the database tables (and fields
22 contained therein) Defendant maintains with respect to clicks and impressions.¹ See Joint Report at
23 7. Plaintiff originally requested this information via the “Click Data Requests” described in the
24 Joint Report, to which Defendant objected and demanded a “meet and confer” with Plaintiff

25 _____
26 ¹ In the Joint Report, Plaintiff also asks the Court to compel Defendant to produce documents
27 responsive to Second Requests Nos. 31–33. See Joint Report at 6–7. While this issue remains ripe
28 for resolution, the documents Plaintiff seeks to file with the Court by this Motion do not pertain to
Second Requests Nos. 31–33.

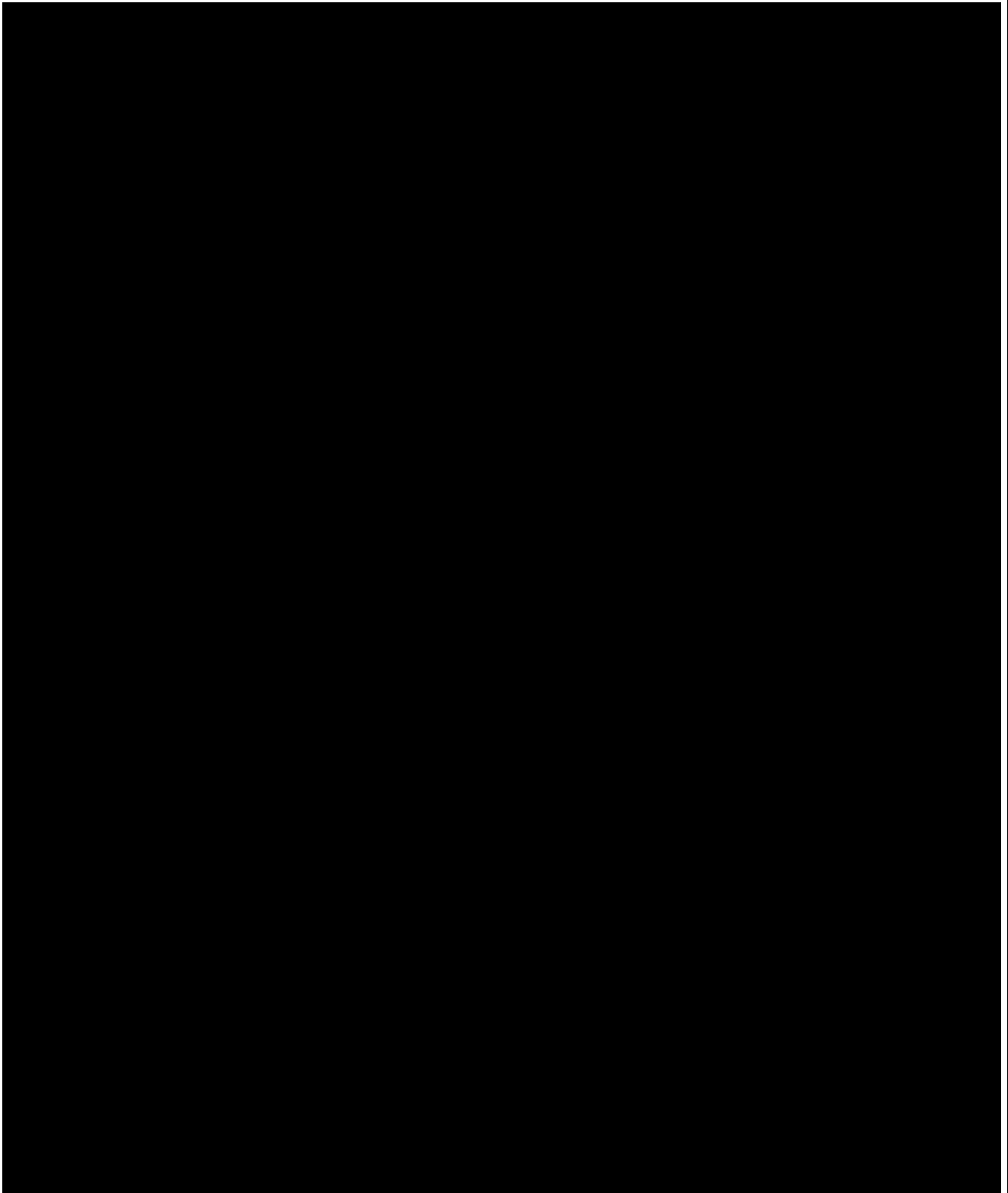
1 regarding the scope and nature of information to be produced from its databases in response to these
2 requests. *See* Joint Report at 3–5. As described in the Joint Report, Defendant has not provided
3 adequate (or, in some instances, any) descriptions of the data it possesses, which is required to
4 conduct any meaningful “meet and confer.” Instead, Defendant has, at times, stated such data does
5 not exist, claims to have provided “substantially complete information,” and claims any further
6 reports are equally available to Plaintiff. *See id.* This is demonstrably false. The documents
7 Plaintiff seeks leave to file with the Court resolve any doubt about whether Defendant has the
8 requested information in an accessible form. Defendant does.

9 The Joint Report described, but did not attach, examples of documents Defendant produced
10 confirming it possesses more relevant and responsive data than it has disclosed. Since the filing of
11 the Joint Report, Defendant produced additional documents, from which Plaintiff has gleaned an
12 idea of the wealth of data Defendant truly possesses. In the two months since the Joint Report was
13 filed, Defendant has made no effort to produce the properly requested information or even
14 attempted to justify its prior statements about such information not existing and/or being equally
15 available to Plaintiff.² Each document contradicts Defendant’s representations to Plaintiff during
16 meet and confers on this issue, particularly Defendant’s letters whereby Defendant purported to
17 provide descriptions of all relevant tables and fields it possesses and claimed it is “unaware of
18 additional reports that it could run...that are not available to [Plaintiff].” As such, the documents
19 will further demonstrate why the Court should compel Defendant to provide the documents and
20 information specified in the Joint Report so the parties may finally have a meaningful meet and
21 confer regarding the scope and nature of information for Defendant to produce from its databases.

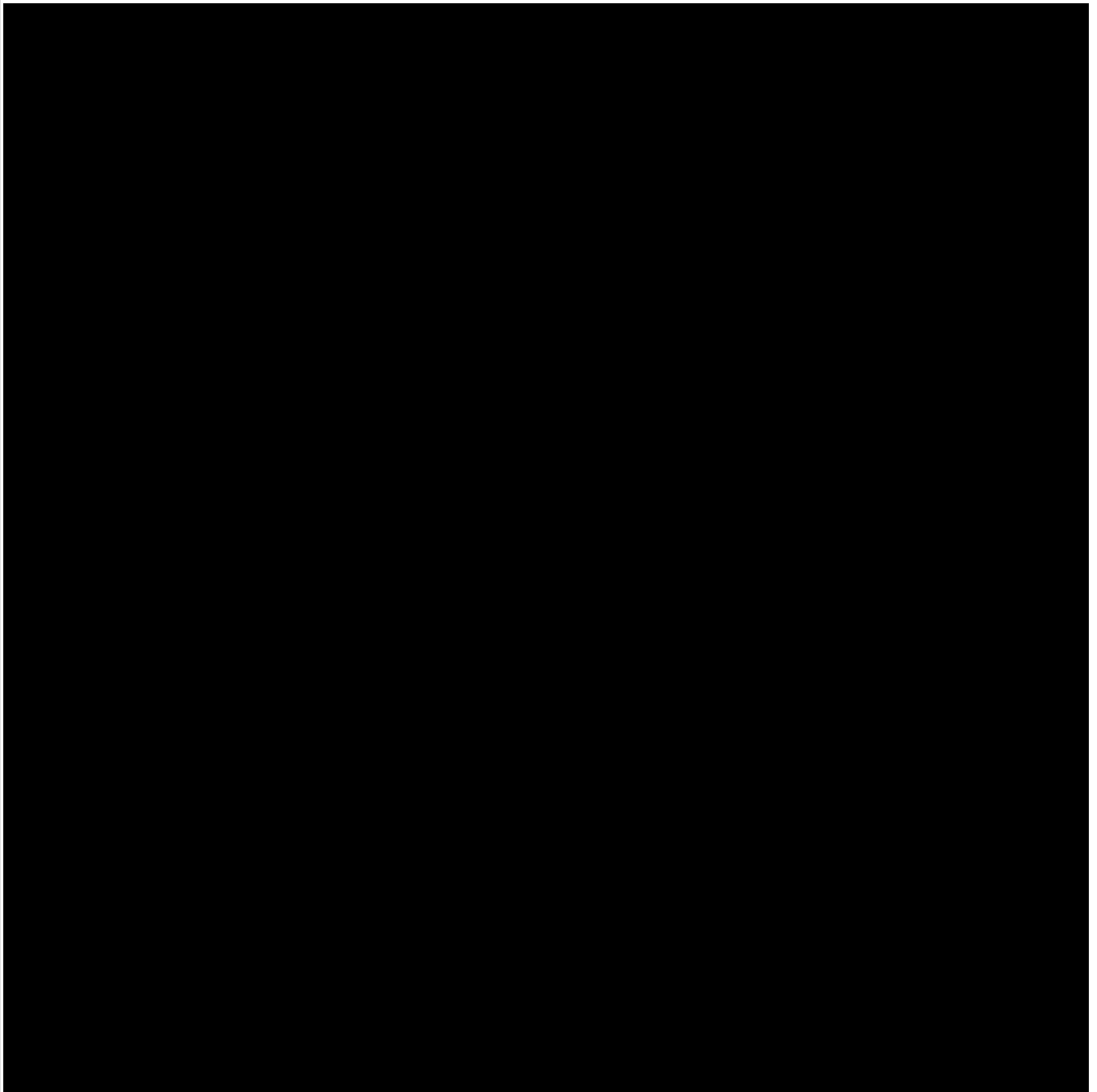
22 Accordingly, Plaintiff respectfully requests the Court grant the leave requested so the
23 following previously cited documents may be part of the Joint Report record:

24
25 ² Defendant’s failure to provide such documents or justification further confirms the parties were at
26 an impasse at the time of filing the Joint Report and belies Defendant’s claims to the contrary in its
27 “Objection” to the Joint Report. *See* Dkt. No. 135 at 2–3. No further meet and confer would have
28 been productive because Defendant apparently intends to withhold the responsive data it
possesses—and even *descriptions of the responsive data in its possession*—until ordered otherwise
by the Court.

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Additionally, Plaintiff respectfully requests the Court grant the requested leave so that the following recently-produced documents may be part of the Joint Report record:



The documents described above do not describe the universe of responsive data Defendant possesses, as Plaintiff remains in the dark about such universe. Rather, these documents provide examples of the magnitude of relevant data Defendant possesses—data that Defendant to date has repeatedly refused to provide or even identify. Defendant’s discovery obligations dictate it must provide more than a glimpse of its relevant and responsive documents. Moreover, the complexity and depth of Defendant’s data illustrates why Plaintiff requires the relief he seeks in the Joint Report so that the parties may meaningfully confer on an efficient method to generate relevant and

1 necessary data from Defendant's databases. Thus, Plaintiff respectfully requests the Court grant
2 leave to file the above-described documents under seal as supplemental support for the Joint
3 Report.

4 As required by Local Rule 7-11, Plaintiff sought a stipulation from Defendant to the filing
5 of the supplemental support described above so that such support may be part of the Joint Report
6 record. See Plaintiff's Administrative Motion to File Under Seal Plaintiff's Motion for Leave to
7 Supplement Discovery Dispute Joint Report #1, Pate Declaration, Ex. A (Dkt. No. 138). Such
8 stipulation was not given. See *id.*

9
10 Dated: October 10, 2013

Respectfully submitted,

11 /s/ Andrew G. Pate

12 **NIX, PATTERSON & ROACH, LLP**

13 Jeffrey J. Angelovich

14 Brad E. Seidel

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3600 N. Capital of Texas Highway

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7 Telephone: (610) 667-7706
8 Facsimile: (610) 667-7056

9 *Interim Co-Class Counsel*

10 **CERTIFICATE OF SERVICE**

11 I hereby certify that on October 10, 2013, I served the foregoing to all counsel of record via
12 overnight courier and electronic mail.

13 I certify under penalty of perjury under the laws of the United States of America that the
14 foregoing is true and correct. Executed on October 10, 2013.

15 /s/ Andrew G. Pate
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7 **UNITED STATES DISTRICT COURT**
8 **NORTHERN DISTRICT OF CALIFORNIA**
9 **SAN JOSE DIVISION**

10 RICK WOODS, Individually and On Behalf of
11 All Others Similarly Situated,

12 Plaintiff,

13 v.

14 GOOGLE INC.,

15 Defendant.

Case No. 11-cv-1263-EJD

**[PROPOSED] ORDER GRANTING
PLAINTIFF'S MOTION FOR LEAVE
TO SUPPLEMENT DISCOVERY
DISPUTE JOINT REPORT #1**

16
17 The Court, having considered Plaintiff's Motion for Leave to Supplement Discovery
18 Dispute Joint Report #1 and Defendant's Response, and for good cause shown

19 **IT IS HEREBY ORDERED**, Plaintiff's Motion is GRANTED, and Plaintiff may file the
20 documents described therein under seal to be made part of the record for Discovery Dispute Joint
21 Report #1.

22
23 IT IS SO ORDERED.

24 Dated: _____

The Honorable Howard R. Lloyd
United States Magistrate Judge